

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE & SMALL BUSINESS

Held in Room 423-S, at the Statehouse at 10:00 a. m. ~~p.m.~~
on Wednesday, January 21, 1981, 19 .

All members were present except: Senator Ross Doyen (Excused)
Senator Ed Reilly (Excused)

The next meeting of the Committee will be held at 10:00 a. m. ~~p.m.~~,
on Thursday, January 22, 1981, 19 .

These minutes of the meeting held on Wednesday, January 21, 1981 were
considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

Senator John Chandler
Ron Gaches, K.A.C.I.
Samuel P. Cowley, representing Kansas Electric Cos. Assn.
Rodney Moyer, Manhattan farmer
Keith Meyer, KU Professor--Agricultural law classes

Chairman Kerr called the meeting to order. Senator Karr moved the minutes of the January 20, 1981 meeting be approved; Senator Allen seconded the motion. Motion carried. The Chairman said that today's meeting would deal with suggested changes and problems associated with the corporate farm law. In following meetings the committee will discuss whether to adopt some of the suggestions made today. It was noted that if the committee does proceed with introducing a corporate farm bill that the conferees appearing today will be welcome to return to make remarks pertinent to the bill which is introduced.

Senator Chandler was introduced. He stated that he was introducing a bill which would prohibit certain trusts from acquiring agricultural land. (Senate Bill 41) His concerns centered around large pension and benefit funds which could be invested by companies formed to buy farms. He said that billions of dollars could be available for such investments and that he feels that it would be unwise for Kansas to allow such investments in agricultural lands. Senator Chandler said his bill is patterned after a similar one in Iowa. (See Attachments A and B)

Ron Gaches, representing the Kansas Association of Commerce and Industry, was introduced and submitted a Proposed New Sub-section (b) to K.S.A. 17-5901 (See Attachment C) This proposed language was prepared after members of the KACI board expressed a desire to clarify the law so that corporations could rent out farmland when ownership of such farmland was necessary because of the nature of the business of the corporation. Mr. Gaches indicated that there are several corporations in Kansas with operations not closely involved with agriculture but in which ownership of some agricultural land is necessary. His Association feels that this land should be in agricultural production on a rent basis. In answer to a question, Mr. Gaches said there was no intent on the part of his Association to include churches, universities, or other endowment associations in the proposed exclusion.

CONTINUATION SHEET

Minutes of the SENATE Committee on January 21, 1981

Sam Cowley, Vice President of the Kansas City Power and Light Company, appeared on behalf of the Kansas Electric Companies Association. He stated he supported the K.A.C.I. amendment. He indicated that in some cases thousands of acres of agricultural land are needed by utility companies for cooling lakes, railroad loops, buffer zones and other uses pertinent to the operation of a utility plant. He said that some of this land needs to remain in agricultural production and that it would be a mistake for the utility companies to be forced to leave this land idle with no production at all. He said that the revenues received by the utilities from the cash renting of this land is insignificant when compared to the operating revenues of a utility. Upon inquiry, Mr. Cowley stated he did not know if companies depreciated this land in their I.R.S. reports. (See Attach. "G" to original minutes)

Rodney Moyer, a farmer involved in a family farm corporation near Manhattan, was introduced. He said he feels that the present law is too restrictive for many family farm corporations considering today's technology. He said that in several cases the 5,000 acre limitation is too restrictive. He also said that the 10 stockholder limitation is often an unnecessary burden. He feels that those involved in agriculture should be able to have the same privileges as stockholders in hotels and other types of businesses. He said that Kansas does need a law to prohibit large public corporations from becoming involved in farming. He suggested that the number of stockholders allowed in a farm corporation be increased to 20 or 25. (See Attach. "H" to original minutes)

Keith Meyer, a Professor at the University of Kansas who instructs on corporate farm law, appeared before the committee. He distributed several papers concerning the corporate farm law (see Attachments D, E and F), including some loopholes in the law, some tables showing actions taken by other states relative to corporate farm laws, and pointing out suggested changes in the Kansas law. He said he felt the company had four choices in pursuing the corporate farm question:

1. Do nothing--leave the law as it is.
2. Keep the current framework of the Kansas corporate farm law but make the necessary amendments to update it.
3. Repeal the current statute and start with a new position which would define family farm corporations.
4. Repeal the current statute and do not enact a new law in its place.

Professor Meyer said that his personal recommendation would be number 3; that is, the committee should repeal the current law and in its place enact a law perhaps similar to statutes in Iowa or Minnesota which define family farm corporations and allow their operations and prohibit other corporations.

Senator Kerr said there were others who wanted to appear before the committee with recommendations concerning the farm corporation law and that the hearings would continue at the next meeting, January 22, with input from those people.

The meeting was adjourned.

Session of 1981

SENATE BILL No. 41

By Senator Chandler

1-20

0016 AN ACT relating to agricultural land as defined therein; prohib-
0017 iting certain trusts from acquiring such land.

0018 *Be it enacted by the Legislature of the State of Kansas:*

0019 Section 1. As used in this act:

0020 (a) "Agricultural land" means land suitable for use in farm-
0021 ing.

0022 (b) "Farming" means the cultivation of land for the produc-
0023 tion of agricultural crops, the raising of poultry, the production of
0024 eggs, the production of milk, the production of fruit or other
0025 horticultural crops, grazing or the production of livestock. Farm-
0026 ing does not include the production of timber, forest products,
0027 nursery products, or sod, and farming does not include a contract
0028 where a processor or distributor of farm products or supplies
0029 provides spraying, harvesting or other farm services.

0030 (c) "Fiduciary capacity" means an undertaking to act as ex-
0031 ecutor, administrator, personal representative, guardian, conser-
0032 vator or receiver.

0033 (d) "Trust" means a fiduciary relationship with respect to
0034 property, subjecting the person by whom the property is held to
0035 equitable duties to deal with the property for the benefit of
0036 another person, which arises as a result of a manifestation of an
0037 intention to create it. Trust does not include a person acting in a
0038 fiduciary capacity. A trust includes a legal entity holding prop-
0039 erty as trustee, agent, escrow agent, attorney-in-fact, and in any
0040 similar capacity.

0041 (e) "Family trust" means a trust in which:

0042 (1) A majority interest in the trust is held by and the majority
0043 of the beneficiaries are persons related to each other as spouse,
0044 parent, grandparent, lineal descendants of grandparents or their

spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related; and

(2) all the beneficiaries are natural persons, who are not acting as a trustee or in a similar capacity for a trust, or persons acting in a fiduciary capacity.

(f) "Authorized trust" means a trust other than a family trust in which:

(1) The beneficiaries do not exceed 25 in number; and

(2) the beneficiaries are all natural persons, who are not acting as a trustee or in a similar capacity for a trust, or persons acting in a fiduciary capacity; and

(3) income therefrom is not exempt from taxation under the laws of either the United States or the State of Kansas.

(g) "Testamentary trust" means a trust created by devising or bequeathing property in trust in a will as such terms are used in the Kansas probate code.

Sec. 2. (a) No trust, other than a family trust, authorized trust or testamentary trust shall, either directly or indirectly, acquire or otherwise obtain or lease any agricultural land in this state. The restrictions provided in this section shall not apply to the following:

(1) Agricultural land which is acquired by a trust company or bank in a fiduciary capacity or as trustee for a family trust, authorized trust or testamentary trust.

(2) Agricultural land held or leased by a trust on January 1, 1981, as long as the trust holding or leasing such land continues to hold or lease the land.

(3) Agricultural land acquired by a trust for immediate use in nonfarming purposes.

(b) Any trust, other than a family trust, authorized trust or testamentary trust, violating the provisions of this section shall upon conviction, be punished by a fine of not more than \$50,000 and shall divest itself of any land acquired in violation of this section within one year after conviction. The district courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or a

0082 district or county attorney shall institute suits on behalf of the
0083 state to prevent and restrain violations of this section.

0084 Sec. 3. Every person acting in a fiduciary capacity or as a
0085 trustee who holds agricultural land in this state outside the
0086 corporate limits of any city, shall file with the secretary of state on
0087 or before January 31 of each year, beginning in 1982, a report as
0088 follows:

0089 (a) The name and address of the beneficiary or beneficiaries
0090 on behalf of whom the land is held.

0091 (b) The acreage and location of the land held in such fidu-
0092 ciary or trustee capacity listed by township and county on De-
0093 cember 31 of the year reported.

0094 Sec. 4. (a) Any beneficiary identified in a report filed with the
0095 secretary of state pursuant to section 4, shall file with the secre-
0096 tary of state on or before March 31 of each year, beginning in
0097 1982, on forms supplied by the secretary of state, a report con-
0098 taining the information set forth in subsection (b) with respect to
0099 land owned or leased by a fiduciary or trustee on behalf of the
0100 beneficiary.

0101 (b) Each beneficiary to which the provisions of subsection (a)
0102 apply shall file with the secretary of state on or before March 31
0103 of each year on forms supplied by the secretary of state an annual
0104 report setting forth the following:

0105 (1) The name, address and principal occupation of the bene-
0106 ficiary.

0107 (2) Declaration of the type of agricultural activity engaged in
0108 on the agricultural land held on behalf of the reporting benefi-
0109 ciary and the name, address and title of person in charge of daily
0110 operations.

0111 (3) The acreage and location listed by section, range, town-
0112 ship and county of each lot or parcel of agricultural land in this
0113 state owned or leased on behalf of the beneficiary at the end of
0114 the preceding calendar or fiscal year.

0115 (4) The nonfarming purposes, if any, for which the agricul-
0116 tural land is held.

0117 Sec. 5. Failure to timely file a report or the filing of false
0118 information is punishable by a civil penalty not to exceed

0119 \$10,000.

0120 For the purposes of this section a report is timely filed if the
0121 report is filed prior to May first of the year in which it is required
0122 to be filed.

0123 The secretary of state shall notify a person who the secretary
0124 has reason to believe is required to file a report as provided by
0125 this act and who has not filed a timely report, that the person may
0126 be in violation of this section. After 30 days from receipt of the
0127 notice, any person required to report under this act who has not
0128 filed, shall be assessed a civil penalty of \$100 for each day in
0129 which the report is not filed. The secretary of state shall include
0130 in the notice, a statement of the penalty which will be assessed if
0131 the report is required and is not filed within 30 days. This penalty
0132 shall be in addition to any other penalty under this act. The
0133 secretary of state shall notify the attorney general, when the
0134 secretary of state has reason to believe a violation of this act has
0135 occurred.

0136 Sec. 6. This act shall take effect and be in force from and after
0137 its publication in the statute book.

Washington Report

Pension fund land scheme under fire

There's a plan afoot to provide capital to agriculture, opportunities for young farmers and more jobs for farm management companies.

At least that's what the president of a new company formed to buy farms with millions of dollars in pension funds contends.

The American Agricultural Investment Management Company (AAIM) intends to purchase land for individual employee benefit funds. Each fund would invest \$5-\$7 million to purchase several farms, and each farm would be supervised by a farm manager.

Farms would be purchased in five regions: The Delta; the Southwest; Texas, Colorado and California; the Northwest; and the Midwest.

(Iowa might be the only state immune to such investment. State law there only allows trusts, other than family and testamentary trusts, to purchase farmland if there are fewer than 25 beneficiaries who are natural persons and if the income of the trust is taxed.)

In some cases managers would work with local tenant farmers who would provide machinery and labor. Crop proceeds would be split according to local custom.

"What could be better than the retirement savings of American workers going to help agriculture?" asks AAIM President William S. P. Cotter.

Push toward hired farm hands. Critics think just about anything would be better than permitting institutional investors to separate farm ownership and operation.

Like the Continental Illinois Bank's Ag-Land Trust proposal of 1977, pressure is mounting to stop the new venture before it gets started.

What concerns critics is the vast financial resources of pension funds. Altogether, the nation's pension plans have assets worth more than \$350 billion—far more than the Ag-Land Trust would have had to invest.

AAIM's list of opponents reads like a Who's Who in Agriculture: The American Farm Bureau Federation, the National Farmers Union, the National Grange, the National Farmers

Organization, Rural America and the Department of Agriculture (USDA).

At least one senator is considering introducing legislation to alter the tax-exempt status of pension fund income which is earned from farmland investment.

But USDA may get results before legislation can slowly grind its way through Congress.

The Department of Agriculture, which has gone on record saying "the AAIM proposal would benefit no one but AAIM," wants the Internal Revenue Service to get into the fray.

USDA's Deputy Director of Economics, Susan Sechler, says "We will propose tax code changes so that farm rental income received by pension funds and capital gains realized by them on farmland would not be exempt from income taxes."

And the General Accounting Office (GAO), the investigative arm of Congress, is looking into the matter. A House Agriculture Subcommittee has asked the GAO to prepare a report evaluating the impact of pension fund investment on the family farm structure and farm ownership.

Blockade or boon for farmers? AAIM's Cotter says critics of the plan "are railing against progress."

"It wasn't some Arab sheik who reduced the number of farm families from 5.9 million to 2.4 million over the last 35 years," he argues. "It was technology that was developed to make farming efficient. And the only ones who survive are the efficient farmers."

"We've had many calls from farmers who want to sell us their land and lease it back."

A Senate Small Business Committee staffer admits there may be many farmers interested in selling to AAIM. The staffer says: "The problem is not so much people who already have farms. The problem is with the people who would like to become farmers. Pension fund proposals like the AAIM's will effectively shut them out."

Cotter disagrees: "There's no way a farmer coming out of college has the \$2 million it takes to buy a basic farm in the Midwest. We will buy farms from

people who are willing to sell them and we will put operators on those farms. So we are creating opportunities for young people to get into farming."

Fuels land inflation. Secretary of Agriculture Bob Bergland doesn't see it that way. "Buy-and-lease operations drive newcomers out of business," he tells *Successful Farming*. "A young family trying to get started in farming won't have a prayer."

Bergland thinks that AAIM is likely to screen potential tenants much more closely than other landlords.

AAIM and its opponents are also at odds on the pension fund plan's effect on farm real estate prices.

Cotter maintains AAIM's purchase of farms won't "materially affect farmland prices."


USDA's Sechler counters that. Since the farm real estate market is affected by local forces, "the entry of even a small fund or other institutional investor causes dramatic increases in the asking price in a local area," she says.

A Senate Small Business Committee report on farm ownership sums it up this way: "It is hard to avoid the conclusion that the more people there are in the market for land, the higher the price of land will be."

There is one and perhaps only one aspect to this issue about which everyone agrees: Farmland is a superb investment, especially as a hedge against inflation. Over the last ten years the real value of farmland, after adjusting for inflation, has increased at an average annual rate of 5.5%.

Not scared by flap. Unless its plan is blocked by state or federal action, AAIM will begin "investing in literally every state that allows it," Cotter says. "The purchases would start in 1981."

Clearly, its going to take more than pressure to stop the AAIM. As Cotter reminds us, "There was nothing to stop the Continental Illinois Bank's Ag-Land Trust proposal. They got out because they couldn't take the heat."

Cotter emphasizes the AAIM "is not going to succumb to that cheap kind of politics." 

—Tricia Klintberg

Prepared by Kansas Association of
Commerce and Industry
January 21, 1981

Proposed New Subsection (b) to K.S.A. 17-5901

- (b) Nothing in this section shall be construed as prohibiting a foreign or domestic corporation from owning or holding land, reasonably necessary to the conduct of its business, or from leasing such land for the raising of agricultural products to persons or entities otherwise not prohibited from engaging in such activity, where the corporation has no pecuniary interest in the farming or agricultural operation and where there is no direct financial benefit to such corporation, other than rent.

Some issues raised by K.S.A. 17-5901-02

Presented to the Senate Agriculture & Livestock Committee

Keith G. Meyer
Professor of Law
University of Kansas

- I. What is the purpose of this type of legislation?
 - A. Encourage family farm units? (what is a family farm unit today?)
 - B. Keep large nonfarm oriented corporations out of farming?
 - C. Prohibit large operations?
 - D. Control farm land ownership?
 - E. Control of an inherently evil business entity, the corporation.
 - F. Prevent absentee ownership?

- II. Why does the legislature want to control the type of business entity that farms?

- III. The Kansas limitation on who can farm is found in K.S.A. 17-5901 which deals only with corporations.

- IV. What corporations can farm in Kansas?
 - A. 17-5901 provides: "No corporation shall directly or indirectly engage in the agricultural or horticultural business or producing, planting, raising, harvesting or gathering of wheat, corn, grain, sorghums, barley, oats, rye or potatoes, or the milking of cows for dairy purposes..." unless it is a domestic corporation and meets the following five requirements:
 1. There are no more than 10 shareholders.
 2. There are no corporate shareholders, except when the corporate fiduciary is serving individuals.
 3. All incorporators must be natural persons and residents of Kansas.
 4. The corporation cannot control, indirectly or directly, more than 5000 acres.
 5. No shareholder may own stock in another corporation, satisfying these requirements.

 - B. Does this statute prohibit all corporations from farming in Kansas?
 - A. Can General Motors purchase 1000 acres of land and raise soybeans on it?
 - B. Can Iowa Beef Processors, Inc. buy 1000 acres of land and run a cow-calf operation?
 - C. Can Iowa Beef Processors, Inc. buy 100 acres of land and go into the feed lot business?
 - D. Can General Motors purchase 1000 acres of land and let it stand idle and simply hold it for capital appreciation.
 - E. Suppose you have a corporation incorporated in Iowa which is authorized to do business in Kansas and owns land in Kansas. A plant is built on part of the land and the other part, held for expansion purposes, is cash rented to local farmers. Does this violate the statute?
 - F. May a domestic non-profit corporation own more than 5000 acres of farmland in Kansas? Suppose also that it is rented on a crop-share basis to farmers who raise only winter wheat and milo. What about cooperatives? Sec. 17-1603 K.S.A.

- G. Suppose that you have an insurance company, incorporated in Delaware, wants to put \$2,000,000 as a limited partner in a partnership arrangement. The general partners are to be two Kansas farmers who are to provide the machinery, labor, management, and a limited amount of land capital. The partnership would buy 5500 acres of land. Does this arrangement violate 17-5901?
 - H. Can an Illinois employee pension trust fund, qualified as a trust fund under Internal Revenue Code §400 et. seq. come to Kansas and buy farmland and hire local farmers to raise wheat on the land?
- V. What are the current remedies provided for under the statute if a corporation is found to be in violation of the statute?
- A. Statute silent
 - B. Revocation of corporate charter
 - C. Enjoin the corporation from farming. (what happens to the land?)

RESTRICTIONS ON AUTHORIZED FARM CORPORATIONS

(ATTACHMENT E)

	Shareholder Limit	Exceptions To Number Shareholders	Individuals	Incorporates	Acreage	Shareholder Classes	Shareholder Reside on Farm	Stock Obtained By Income	% Corp. Income From Farm	Interest Restricted	Members Holding Stock in other Farm Corp.	Foreign Shareholders
Nebraska										leasehold or greater		
Oklahoma	10	lineal descendants, relation by marriage, adoption	natural persons trustees for natural persons banks						max. 35% sources other than farming or minerals			
Wisconsin	15	lineal ancestors, descendants, aunts, etc. count as one shareholder	natural person			no more than two classes		DEVISE OR BEQUEST EXEMPTED		"own" acquire land or commence farming		
North Dakota							75% members or shareholders reside on farm					
Missouri	1/2 voting stock held by 1/2 stockholder members.	family within third degree by affinity or consanguinity	natural persons, estates, trusts				at least one member live on or operate	DEVISE OR BEQUEST EXEMPTED	2/3 net income from farming	land or an interest therein		
South Dakota	10 majority voting stock held by maj. of family	related to third degree	natural persons, estates			one class only	at least one member live on or operate	DEVISE OR BEQUEST EXEMPTED	max. 20% rental, royalties etc.	an interest, legal or otherwise in any title		
Minnesota	5 maj. voting stock held by maj. of stockholders	persons or spouses of persons related to third degree	natural persons, estates		2700 acres asparagus	one class only	at least one member live on or operate	DEVISE OR BEQUEST EXEMPTED	max. 20% rental royalties etc	includes leasehold		20% of holdings No non-US Corp
Iowa	maj. voting stock held by maj. of related stockholders	spouse, parent, grandparents, descendants of grandparents or spouses & lineal descendants, fiduciaries	natural persons, non-profit corporation, fiduciary for natural person				at least one member live on or operate		min. 60% from farming			

	Reporting	Enforcement	Penalty	Divestment	
Nebraska	corporations holding agricultural land farm corp. special requirements				
Oklahoma	Secretary of State reports to Board of Agriculture weekly	Board of Agriculture Revoke any license	civil criminal \$500 misdemeanor or	within reasonable time	
Wisconsin		County attorney	\$1,000 each day separate offense	within reasonable time	
North Dakota		County attorney		within 10 years farm in interum escheat to county	
Missouri	special reporting for corp. involved in farming Prerequisite to doing bus. in state	attorney general	\$500 to \$1,000 file with registrar	public sale within two years	
South Dakota	Special reports for farm corp not qualified to do business without report	attorney general	\$1,000 misdemeanor file	within 5 years, or Court ordered public sale	
Minnesota	Annual reports special farm corporations reporting	attorney general	public sale of land	public sale	
Iowa	corporations and limited partnerships	attorney general or county attorney	\$50,000 Reporting Violations-\$1,000	within 1 year	

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	Shareholder Limit	Exceptions To Number Shareholders	Individuals	Incorporates	Acreage	Shareholder Classes	Shareholder Reside on Farm	Stock Obtained By Income	% Corp. Income From Farm	Interest Restricted	Members Holding Stock in other Farm Corp.	Foreign Shareholders
Nebraska										leasehold or greater		
Oklahoma	10	lineal descendants, relation by marriage, adoption	natural persons trustees for natural persons banks						max. 35% sources other than farming or minerals			
Wisconsin	15	lineal ancestors, descendants, aunts, etc. count as one shareholder	natural person			no more than two classes		DEVISE OR BEQUEST EXEMPTED		"own" acquire land or commence farming		
North Dakota							75% members or shareholders reside on farm					
Missouri	1/2 voting stock held by 1/2 stockholder members.	family within third degree by affinity or consanguinity	natural persons, estates, trusts				at least one member live on or operate	DEVISE OR BEQUEST EXEMPTED	2/3 net income from farming	land or an interest therein		
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Iowa	maj. voting stock held by maj. of related stockholders	spouse, parent, grandparents, descendants of grandparents or spouses & lineal descendants, fiduciaries	natural persons, non-profit corporation, fiduciary for natural person				at least one member live on or operate		min. 60% from farming			

1	Restriction	CROPS Enumerated	Products Exempled	Other
Nebraska 76-152, 1503	Production of crops, raising or feeding of animals for production	Crops, fruit or horticulture livestock, poultry, poultry products, milk, dairy products.	X X X X X X X X X X	X X X X X X X X X X X X
Oklahoma 18-951 6-956	engaging in farming or ranching, or leasing land to be used in business of farming.	X X X X X X X X X X X X X X	Research feeding livestock & poultry forestry food processing	1, 2 partnerships
Wisconsin ch, 182	carrying on farming operations	cattle, hogs, sheep, wheat, corn, barley, rye, oats, rye, hay, pasture, soybeans, millet, sorghum, dairy products	research, seed production processing dairy products	2,3,4,5*
North Dakota ch. 10-06	engaging in the business of farming agriculture	X X X X X X X X X X X X X X	X X X X X X X X X X X X X X	6,7 land exchanged for other land
Missouri 350.010 to .030	using or cultivating land for production	agricultural crops, livestock, poultry, poultry products, milk, dairy products, fruit	Research, seed production processing & distribution forestry, fish, poultry, mushrooms, pharmaceuticals, chemicals	2,3,4,8
South Dakota ch. 47.9A	Cultivation of land for production	agricultural crops livestock products poultry, poultry products, fruit	Research, seed production processing & distributing forest, timber, breeding stock, nursery plants, sod	2,3,4,8 nonfarm use* held for debts
Minnesota 500-22, .24	production of agricultural products	agricultural products livestock, milk products fruit	research processing & refining forest, timber poultry, spraying, harvesting	1a, 3*, 4, 6 necessary for manufacturing settlers, treaties, zoning utilities
Iowa 172C	cultivation of land for production	agricultural crops poultry eggs, milk, fruit, graising or producing livestock	research	1b, 2, 8 nonfarm use, railroad, highway, right of way 20 acres within cities

1. Charitable, eleemosynary corporations
- 1a. Educational, religious, and charitable nonprofit corporations
- 1b. Educational institutions, when used for research purposes
2. Land held at date statute enacted
3. Held as security-if divested within given time

4. Normal exparison and pollution control(20% in 5 years)
5. Incidental to non-prohibited use
6. Judicial process-operation of law
7. Nortgage, lien
8. Trusts

*Indicates requirement of lease to farm corporation if used for farming

	Reporting	Enforcement	Penalty	Divestment	
Nebraska	corporations holding agricultural land farm corp. special requirements				
Oklahoma	Secretary of State reports to Board of Agriculture weekly	Board of Agriculture Revoke any license	civil criminal \$500 misdemeanor or	within reasonable time	
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North Dakota ch. 10-06	engaging in the business of farming agriculture	X X X X X X X X X X X X X X	X X X X X X X X X X X X X X	6,7 land exchanged for other land
Missouri 350.010 to .030	using or cultivating land for production	agricultural crops, livestock, poultry, poultry products, milk, dairy products, fruit	Research, seed production processing & distribution forestry, fish poultry, mushrooms, pharmaceuticals, chemicals	2,3,4,8
South Dakota ch. 47.9A	Cultivation of land for production	agricultural crops livestock products poultry, poultry products, fruit	Research, seed production processing & distributing forest, timber, breeding stock, nursery plants, sod	2,5,4,8 nonfarm use* held for debts
Minnesota 500-22, .24	production of agricultural products	agricultural products livestock, milk products fruit	research processing & refining forest, timber poultry, spraying, harvesting	1a, 3*, 4, 6 necessary for manufacturing settlers, treaties, zoning utilities
Iowa 172C	cultivation of land for production	agricultural crops poultry eggs, milk, fruit, graising or producing livestock	research	1b, 2, 6 nonfarm use railroad, high-way, right of way 20 acres within cities

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Rec'd 2/23 in mail from Cowley

Agriculture and Small Business Committee
Of the Kansas Senate

Outline of Comments by S. P. Cowley
January 21, 1981

1. Appeared on behalf of the Electric Companies Association of Kansas to support the amendment to the Corporate Farming Law proposed by the Kansas Association of Commerce and Industry. He provided information concerning Kansas City Power & Light Company (of which he is an officer).
2. KCPL and other electric utilities are not in the farming business. A small amount of farming (performed by local farmers) is necessary and incidental to utility operation, however.
3. A modern power plant, a heavy industrial operation, requires thousands of acres of land, i.e., cooling lake requires 2,400 acres, 250 acres for ash storage, 50 acres for coal storage, 200 acres for railroad and unloading facilities.
4. Reasons for cropping utility acreage -
 - a. A permanent ground cover on land surrounding the cooling lake is an absolute necessity to protect the lake from erosion, silting. Any area that is planted must be maintained, cut periodically, to prevent takeover by noxious weeds.
 - b. A buffer zone is needed to enhance plant compatibility with its environs.
 - c. Power plant sites generally have land for future use to accommodate new units, additional storage for coal and ash, etc. Such land shouldn't lie fallow.
 - d. Utilities typically control land below the cooling lake dam,

which naturally needs to be maintained.

é. Conservation and proper utilization of resources require that such utility land be productive.

5. Who gets the economic benefit from revenues derived from such farm leases? KCPL, on a Company-wide basis, received over \$111,000 in 1980 and over \$107,000 in 1979 from such leases. About 85% of such revenues were accounted for as operating revenues utilized to meet operating expenses, thus accruing to the benefit of utility customers and not shareholders. Although such farm rental receipts are infinitesimal compared to the Company operation, i.e., annual revenues of over \$430 million, such farming activity is essential to the proper operation of the plant.
6. The same principles apply with respect to major utility substation and transmission line property.
7. In light of the questions raised about the interpretation of the Kansas Corporate Farming Law by the Dupont case, the statute should be amended to eliminate any question about corporate farming where such is reasonably necessary to its lawful business. Further, I think such an amendment would be consistent with the objectives of the Kansas Legislature when it adopted the Corporate Farming Statute in 1931.
8. Although the factual references provided here relate to Kansas City Power & Light Company, I think that these reasons and considerations would be applicable to other Kansas electric utilities.

A question was asked: "Is the Company entitled to write off the land for income tax purposes?" I responded that I didn't think that land was depreciable under the IRS regulations.

OUTLINE FOR TESTIMONY FOR: Senate Agriculture and Small Business Committee
State Capital
January 21, 1981

- I. Rodney E. Moyer, 1312 Knox Lane, Manhattan, Ks. 66502
- II. Stockholder in family farm corporation
 - A. Members of the board are my father, mother and I.
 - B. Farm raises cattle, hogs and produces grain and forage crops.
- III. Present law does not allow the agricultural community to fully utilize the benefits of the corporate structure:
 - A. 5000 acre limitation if certain crops are produced.
 - B. Limitation of 10 stockholders.
 - C. Individual may own stock in only one agricultural corporation.
 - D. Restricted crops:
 1. Corn
 2. Wheat
 - E. Soybeans and alfalfa are not restricted.
 - F. Present limitations pose problems.
- IV. Corporation is only a method of organization for a business:
 - A. Single proprietorship
 - B. Partnership
 - C. Corporation
- V. In a free enterprise society everyone should be free to use the corporate form of organization if one desires.
- VI. If it is desirable to keep farms and ranchs below a certain size then all operations should be limited, not just corporations.
- VII. Advantages of corporations to farmers:
 - A. Estate planning
 1. Gifts of stock
 2. All children may share in ownership of the farm
 - B. Provides structure for capital formation if several farmers pool their resources to establish one unit for efficient economic size.
 - C. Nature of the corporate form necessitates better records management on the part of the farmer-owner.
 - D. Income tax advantages.
- VIII. May be advantageous to Kansas agriculture to limit entry of the large public corporations.
- IX. Restricting stockholders of a farm corporation to 20-30 stockholders would limit public entry and not interfere with family farm corporations.
- X. All other restrictions of the law are no longer relevant to todays agricultural situation and should be abolished.
- XI. In order that the agricultural community in the State of Kansas remain strong and viable and compete effectively with operators in other states; less restrictive laws governing farm corporations are needed.

SENATE

AGRICULTURE AND SMALL BUSINESS COMMITTEE

DATE January 21, 1981 PLACE Room 423-S TIME 10:00 a.m.

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Wayne Hundley	Topeka	A. H.
Don Deches	Topeka	KACI
John Stutz	KCK	Catholic Rural Life
Norm Baker	Topeka	Lewis Edison, Potosi, Mo
Tom Lyttle	"	DuPont
Robert L. Woods	Wilmington, Del	DuPont
James A. Wilson	Topeka	DuPont
Rodney E. Moyer	Manhattan	
Jack Swartz	Topeka	KACI
Janet Smith	Dodge City	Intern
Judy McAffee	"	"
Roy D. Shenkel	S. Kawnee	K.C.P.C.
Ann Esley	S-M Kus	"
D. WAYNE ZIMMERMAN	TOPEKA	THE ELECTRIC CO ASSN
John Meef	Topeka	KLA
Don Josserrato		SE of State
Frank D. Young	KCK	Humanities Center
Jim Rankin	Topeka	Iowa Beef Proc.
John O. Miller	Topeka	CKFO